

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

GLEN JOSEPH DAVIS

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PETITIONER

v.

Civil No. 1:20-cv-158-HSO-MTP

JOE ERRINGTON

Superintendent

RESPONDENT

**ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION [26] AND DENYING PETITIONER'S PETITION [1]
FOR HABEAS CORPUS RELIEF**

BEFORE THE COURT is the Report and Recommendation [26] of United States Magistrate Judge Michael T. Parker, which recommends denying Petitioner Glen Joseph Davis's Petition [1] under 28 U.S.C. § 2254 for Writ of Habeas Corpus with prejudice. Petitioner has not objected to the Report and Recommendation [26], and the time for doing so has passed.

Having considered the Report and Recommendation [26], the record as a whole, and relevant legal authority, the Court finds that the Report and Recommendation [26] should be adopted as the finding of the Court, and Petitioner Glen Joseph Davis's Petition [1] under 28 U.S.C. § 2254 for Writ of Habeas Corpus should be denied.

I. BACKGROUND

A. Factual background

On August 18, 2015, a jury convicted Petitioner Glen Joseph Davis (“Petitioner” or “Davis”) of deliberate design murder in the Circuit Court of Hancock County, Mississippi (the “Circuit Court”). Ex. [16-9] at 19-20; *see Davis v. State*, 243 So. 3d 222, 224 (Miss. Ct. App. 2017). Petitioner was sentenced as a habitual offender to life imprisonment in the custody of the Mississippi Department of Corrections (“MDOC”), without the possibility of parole or early release. Ex. [16-9] at 19.

Petitioner appealed his conviction, and the Mississippi Court of Appeals affirmed his conviction on October 3, 2017. *See Davis*, 243 So. 3d at 222. The Mississippi Supreme Court denied Petitioner’s Petition for Writ of Certiorari on May 10, 2018, and issued its Mandate on June 12, 2018. *See* Ex. [15-2]; Ex. [15-3]. Thereafter, Petitioner filed a motion for post-conviction collateral relief in the Mississippi Supreme Court, raising as grounds for relief: (1) denial of due process on grounds that the District Attorney and police department deliberately withheld material information and evidence; (2) denial of due process on grounds that the District Attorney and police department deliberately presented false evidence and committed acts of perjury; (3) ineffective assistance of counsel; and (4) actual innocence. Ex. [16-26] at 246-98. The Mississippi Supreme Court denied Petitioner’s motion. *Id.* at 2.

B. Procedural history

On May 1, 2020, Petitioner filed in this Court a Petition [1] under 28 U.S.C. § 2254 for Writ of Habeas raising the same four grounds for relief that he asserted in his state motion for post-conviction relief. Pet. [1]. Respondent Superintendent Joe Errington (“Respondent”) filed an Answer [15] contending that Petitioner’s grounds one, two, and three are procedurally barred from federal habeas review, and that ground four fails to state a claim as Petitioner does not allege deprivation of a constitutionally protected right. Ans. [15] at 1-43.

On June 16, 2021, the Magistrate Judge entered a Report and Recommendation [26] recommending that the Petition for Writ of Habeas Corpus [1] be denied. R. & R. [26] at 34. Petitioner has not filed any objections to the Report and Recommendation [26], and the time for doing so has passed. *See* L.U. Civ. R. 7(b)(4).

II. DISCUSSION

Where no party has objected to a magistrate judge’s report and recommendation, the Court need not conduct a de novo review of it. 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”). In such cases, the Court applies the “clearly erroneous, abuse of discretion and contrary to law” standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review of the record, the Court concludes that the Magistrate Judge's findings are not clearly erroneous, nor are they an abuse of discretion or contrary to law. *See id.* The Court will adopt the Magistrate Judge's Report and Recommendation [26] as the opinion of this Court and the Petition [1] will be denied.

III. CONCLUSION

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Report and Recommendation [26] of United States Magistrate Judge Michael T. Parker entered in this case on June 16, 2021, is **ADOPTED** in its entirety as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Petitioner Glen Joseph Davis's Petition [1] under 28 U.S.C. § 2254 for Writ of Habeas Corpus is **DENIED**, and this civil action is **DISMISSED WITH PREJUDICE**. A separate judgment will be entered in accordance with this Order as required by Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED, this the 12th day of July, 2021.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE